

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY APRIL 2, 2013

AMENDED IN ASSEMBLY MARCH 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 185

Introduced by Assembly Member Roger Hernández

January 28, 2013

An act to amend Section 54953.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 185, as amended, Roger Hernández. Open and public meetings: televised meetings.

The Ralph M. Brown Act requires that an audio or video recording of an open and public meeting made at the direction of a local agency is subject to inspection pursuant to the California Public Records Act and may be erased or destroyed 30 days after the recording. Existing law requires that any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

The Digital Infrastructure and Video Competition Act of 2006 provides that cities, counties, cities and counties, or joint powers authorities receive state franchise fees in exchange for the use of public rights-of-way for the delivery of cable and video services provided within their jurisdictions, based on gross revenues, pursuant to a

specified formula, from state franchise holders that provide public, educational, and governmental access (PEG) channels.

The bill would provide that an audio or video recording of an open and public meeting made at the direction of a local agency may be erased or destroyed 2 years after the recording.

The bill would require a local agency that collects a franchise fee from the holder of a state franchise that provides PEG channels to televise the open and public meetings of its legislative body and planning commission, ~~and, if it is financially feasible, to televise the open and public meetings of any of its advisory committees unless the local agency can prove a financial hardship, unless doing so would result in a financial hardship, as defined, in which case the local agency would be required to broadcast the meetings via an audio-visual electronic medium or an audio medium,~~ as specified. The bill would also authorize the use of the franchise fees to televise the open and public meetings of the local agency and to cover the necessary expenses, as defined, for implementing the televising of the local agency's open and public meetings. The bill would authorize, if franchise fee moneys in excess of that necessary to televise these meetings are available, the use of such fees to provide live streaming of these meetings on the Internet.

By imposing new duties on local public officials to televise open and public meetings, the bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) There have been over 50 public access channel closures in
2 California municipalities. Seven of those municipalities are found
3 within the boundaries of the 48th Assembly District.

4 (b) Unfortunately, many local governments are not utilizing
5 General Fund moneys or franchise fees for support, in addition to
6 public, educational, and governmental access (PEG) channel funds,
7 for the operation of public access television. Not televising open
8 meetings or providing public access television is a threat to
9 accessing public information in a readily available medium.

10 (c) PEG channels permit schools, governments, individuals,
11 and groups to provide and receive information about local events,
12 emergencies, and issues. PEG channels encourage the creation of
13 local programming not only by local municipalities but by civic
14 groups and nonprofits to promote localism and civic engagement.

15 SEC. 2. Section 54953.5 of the Government Code is amended
16 to read:

17 54953.5. (a) A person attending an open and public meeting
18 of a legislative body of a local agency shall have the right to record
19 the proceedings with an audio or video recorder or a still or motion
20 picture camera in the absence of a reasonable finding by the
21 legislative body of the local agency that the recording cannot
22 continue without noise, illumination, or obstruction of view that
23 constitutes, or would constitute, a persistent disruption of the
24 proceedings.

25 (b) An audio or video recording of an open and public meeting
26 made at the direction of the local agency shall be subject to
27 inspection pursuant to the California Public Records Act (Chapter
28 3.5 (commencing with Section 6250) of Division 7 of Title 1), but,
29 notwithstanding Section 34090, may be erased or destroyed two
30 years after the recording. An inspection of an audio or video
31 recording shall be provided without charge on equipment made
32 available by the local agency.

33 (c) (1) A local agency that collects a franchise fee adopted
34 pursuant to paragraph (1) of subdivision (q) of Section 5840 of
35 the Public Utilities Code from the holder of a state franchise that
36 provides public, educational, and governmental access (PEG)
37 channels shall televise the open and public meetings of its
38 legislative body and planning commission ~~unless the local agency~~
39 ~~can prove a financial hardship. As used in this paragraph, "financial~~
40 ~~hardship" means that the cost of broadcasting is greater than the~~

1 amount of franchise fees collected annually. If it is financially
2 feasible to do so, it shall also televise the open and public meetings
3 of its advisory committees that are governed by this chapter.

4 (A) If a local agency has received bids from private entities and
5 at least one nonprofit organization for televising the open and
6 public meetings of its legislative body and planning commission
7 and accepting the lowest bid would result in financial hardship,
8 the local agency shall use another audio-visual electronic medium,
9 such as online streaming video, to broadcast the open and public
10 meetings of its legislative body and planning commission.

11 (B) If, due to additional demonstrable hardship, it is not feasible
12 for a local agency to broadcast the open and public meetings of
13 its legislative body and planning commission via an audio-visual
14 electronic medium, the local agency shall broadcast the meetings
15 via an audio medium.

16 (2) The Legislature strongly encourages local agencies to
17 partner with nonprofit organizations, institutes of higher learning,
18 school districts, and other outside organizations in their efforts to
19 comply with paragraph (1).

20 ~~(2)~~

21 (3) A local agency may utilize any portion of franchise fees
22 collected from the holder of a state franchise pursuant to
23 subdivision (q) of Section 5840 of the Public Utilities Code to
24 televise the open and public meetings of the local agency,
25 including, but not limited to, any necessary expenses for
26 implementing the televising of the local agency's open and public
27 meetings.

28 ~~(3)~~

29 (4) If there are franchise fee moneys available in excess of the
30 amount necessary to televise open and public meetings as required
31 under paragraph (1), the local agency may use that money to fund
32 live streaming of its open and public meetings on the Internet.

33 (5) As used in this subdivision, "financial hardship" means
34 that the cost of broadcasting the open and public meetings of the
35 legislative body and planning commission is greater than the
36 amount of franchise fees collected annually.

37 ~~(4)~~

38 (6) As used in this subdivision, "necessary expenses" includes,
39 but is not limited to, the hiring of personnel, the purchase and

1 maintenance of equipment, or the rental or leasing of production
2 facilities.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 a local agency or school district has the authority to levy service
6 charges, fees, or assessments to pay for the program or level of
7 service mandated by this act, within the meaning of Section 17556
8 of the Government Code.

9 However, if the Commission on State Mandates determines that
10 this act contains other costs mandated by the state for which the
11 authority to levy service charges, fees, or assessments is insufficient
12 to pay for the program or level of service mandated by this act,
13 reimbursement to local agencies and school districts for those costs
14 shall be made pursuant to Part 7 (commencing with Section 17500)
15 of Division 4 of Title 2 of the Government Code.

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18 **CORRECTIONS:**

19 **Text—Page 5.**

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